

REMARKS

Claims 1, 5, 6 and 9-26 remain in this case.

Applicant affirms the election of claims 1-10 and 18. Claims 9-17 and 19-26 have been withdrawn from consideration under a restriction requirement.

Claim 4 has been rejected as failing to comply with the written description requirement. Applicant has canceled claim 4 to reduce the issues present in this application. However, applicant retains the option of, for example, obviating this rejection by amending the specification and reinstituting a claim similar to claim 4.

Claims 1-3, 5, 7-8 and 18 were rejected as anticipated by Daniel U.S. Patent number 5,814,064 and Hart U.S. Patent number 5,868,708 while claim 6 has been rejected as obvious over Daniel.

Claims 1-8 and 18 have also been rejected under an obviousness type double patenting rejection over claims 1-7 of U.S. Patent number 6,258,115. While applicant does not agree that the scope of this invention and claims 1-7 of US Patent number 6,258,115 is the same, applicant forwards with this Amendment a **Terminal Disclaimer** to obviate this double patenting rejection.

Claim 1 has been amended to incorporate the substance of claims 2 and 3. Claim 1 has also been amended to specify that the porous braided structure is a self-expanding porous braided structure. There is nothing in the Daniel or Hart patents, or the other art of record, that suggests a self-expanding porous braided structure having "a porous proximal side and a porous distal side; the distal side having smaller pores than the proximal side to inhibit particles from moving completely through the braided structure when in the expanded condition." The cited art teaches the use of structure to move the distal protection device from a radially contracted condition to radially expanded condition; there is nothing in the art suggesting that there would be an advantage to constructing the distal protection device of, for example, Daniel or Hart to also be self-expanding because doing so would appear unnecessary. Accordingly, there would not have been a reason to modify the art to arrive at the invention of claim 1. With applicant's presently claimed invention the medical professional placing the device obtains the operational advantages of both the self-expanding porous braided structure as well as the moving means. The present invention provides an enhanced level of ease-of-use unavailable with either the Daniel or Hart devices. Method **claim 18** is allowable for similar reasons.

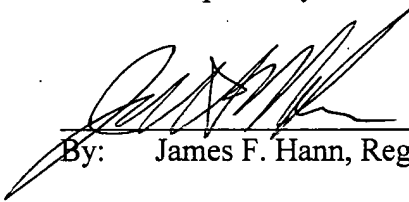
Support for the amendments to claims 1 and 18 can be found at page 32, lines 1-32 (removing particles); page 30, lines 8-10 (vascular lumen); page 33, lines 1-5 (cardiovascular disease); claim 21 (self-expanding); and claims 2 and 3 (porous side).

The **dependent claims** are directed to specific novel subfeatures of the invention and are allowable for that reason as well as by depending from novel parent claims.

In light of the above remarks and the amendments to the claims, applicant submits that the application is in condition for allowance and action to that end is urged. If the Examiner believes a telephone conference would aid the prosecution of this case in any way, please call the undersigned at (650) 712-0340.

Respectfully submitted,

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By: James F. Hann, Reg. No. 29,719

Enclosures: Petition for Two-Month Extension of Time
Terminal Disclaimer

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